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Subject:— Opinion on the Bombay Essential Articles Restricted Acquisition and possession order.

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C O N T E N T S.

Legal Department File No.O/EARA & P O/42.

Sr.No.	R.I./O.No.	Subject.	Pages.
		Opinions under the Bombay Essential Articles Restricted Acquisition and Possession Order, 1943.	
1	448-Confl dt. 20.7.1949.	Clause 3 A Whether the persons for whom temporary ration cards were obtained should be treated as members of the household.	1-6

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Confidential. Office of the R.L.A.

Under clause 3A of the Essential Articles Restricted Acquisition and Possession Order, 1943, no person shall have in his possession or under his control any essential article in excess of the normal quantity except under the authority of ----- and in accordance with the conditions of a licence etc. "Normal quantity" in this instance means the quantity reckoned on the basis prescribed by Government which is 3.1/8 payle s per head for persons other than manual labourers. And the proviso to sub.clause (2) of clause 2 of the Order is to the effect that for this purpose a householder shall be deemed to require as his normal quantity the aggregate of the quantities reckoned on the said basis in respect of each member of his household including such servants as form part of the household. It is admitted that if account is taken of 22 persons on whose behalf the householder Mr. Setalvad obtained temporary ration card then, the quantity of which he was found in possession would not exceed the aggregate of the quantities reckoned under the said proviso. The short question which, therefore, arises is whether the persons for whom temporary ration cards were obtained should be treated as members of the household.

2. The word "household" or the expression "member of a household" has not been defined in any enactment material to our purpose. Therefore, it will have to be interpreted in the context in which it occurs. The context makes it clear that it is something more than a mere family; for, the words used in the proviso are "each member of his household including such servants as form part of the household. In sub-clause (2) of clause 2 of the Order "household" is contrasted with an establishment, and the expression used is "quantity as would be required

for use and consumption in the household". Household consumption has been defined in sub-clause (6) of clause 2 of the Bombay Rationing Order, 1943 to mean all consumption of food and kerosene other than establishment consumption. Chapter II of the Bombay Rationing Regulation, 1943, deals with household consumption as opposed to consumption by establishments generally, and clause 6 of the Regulation actually uses the expression "head of a family on behalf of his household" making it clear that a household is something more than family. Although a household may be understood to mean a family living together (Dr. Johnson's Dictionary edn. 1827), the usual meaning given to the term is "inmates of a house collectively; an organized family including servants or attendants dwelling in a house; a domestic establishment" (Dr.Murray's New English Dictionary vol.5 p.421). It is this latter meaning which would be more acceptable in the context. The context points to the criterion of persons messing together in one establishment under one roof, and inasmuch as the proviso expressly makes even servants part of the household, it would be difficult to argue that guests, who have come to stay for a month, who are besides relations of the family and for whom ration cards were obtained by the householder and rations were drawn by him are not members of the household in that sense. Moreover, as the law stands, there is no prohibition even for the holder of a temporary ration card to be in possession of the permissible quantity, namely, 3.1/8 paylees. If that be so, it would be difficult to hold that where such persons live as guests of a household, it would be an offence for the householder to hold the aggregate of the quantities permissible to each such person.

3. The point is thus certainly arguable, and it cannot be predicted confidently that the Court will put a narrow construction upon the expression so as to restrict the membership of a household only to the permanent members of Mr. Setalvad and his servants. It the Court following the usual principle of construing penal statutes liberally in favour of the subject were to accept the wider meaning, the case would not succeed. If, however, it is intended to settle the question finally, an authoritative decision may be sought in this case.

4. The second question regarding breach of Government Notification, Finance Department (Supply) No.383/1(a) dated 7th September 1944, for not declaring kerosene stock will be considered on receipt of a copy of the High Court judgment in Kil'edar's case, which Mr. Munsif, Police Prosecutor, has promised to send.

Sd/-

R.N. Lad,

Remembrancer of Legal Affairs.

Police Prosecutor CBII
No.448-Confl dt. 20.7.49.

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